

REMARKS

Claims 1-12 are pending. Amendments have been made to the Abstract and to Claim 3 to correct informalities. Reconsideration is requested.

Rejections on Prior Art

The pending claims have been rejected under 35 USC 102(b) and 35 USC 103(a) based upon the primary reference Kajuch et al relying upon Column 9, line 60 as allegedly describing the fingerprint scanner feature described and claimed by the Applicant. These rejections are respectfully traversed.

Kajuch et al refer to "fingerprint ID" as a possible access control to operate their lock, but not as a key to unlock their lock. They also refer to magnetic strip and retinal scan as possible access controls. It is unclear how an "access control" would function as opposed to an "electronic key", however it is apparent that these are different things because they are given different names. However, given the ordinary meaning of the term "access", it would appear that an "access control" is something which allows one to gain access to use the "key" to then unlock the lock. Thus it is apparent from the cited terminology that a user can be granted access by using a fingerprint ID and then subsequently use the keypad to open the lock. This is not what Applicant has disclosed and claimed herein. Applicant has disclosed and claimed a padlock which employs a fingerprint scanner to unlock the padlock, not simply to gain access to then operate a keypad.

Moreover, the meager reference to “fingerprint ID” as a possible “access control” is clearly not an adequate disclosure which rises to the level of an anticipating reference. On the law of anticipation, Judge Learned Hand stated:

“No doctrine of the patent law is better established than that a prior patent or other publication to be an anticipation must bear within its four corners adequate directions for the practice of the patent invalidated.”

Dewey & Almy Chem. Co. v. Mimex Co. 124 F. 2d 986, 989 (2nd Cir. 1942)

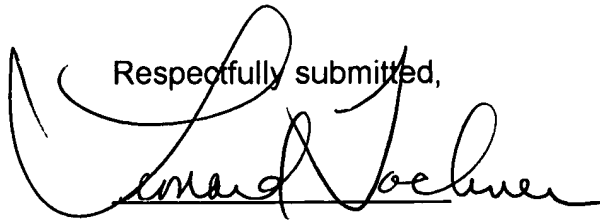
Neither does it satisfy the well-known requirements for a reference under 35 USC 103(a). Even as an “obviousness” reference, it must describe and enable the claimed invention with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention (See Elan Pharms, Inc. v. Mayo Found. For Med. Educ. & Research 64 U.S.P.Q. 2d 1292, 1296 (Fed. Cir. 2002))

Making a mere suggestion that “fingerprint ID” may be employed as an “access control” does not satisfy either anticipation or obviousness reference requirements.

Amendment Continued
Serial No. 10/601,919

Based upon the foregoing, the rejections on Kajuch et al are not well founded and should be withdrawn. An early allowance of pending claims 1-12 is therefore earnestly solicited.

Respectfully submitted,



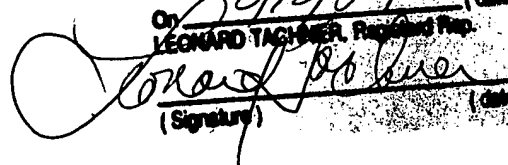
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